THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21773 OF 2005

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06.10.2005

Between:

1. Bathini Subba Rao, S/o.Venkata Krishnaiah, Maddipadu,

Prakasam District and others

… Petitioners

AND

1. The District Collector, Ongole, Prakasam District

and others

… Respondents

ORDER:

The petitioners are residents of Maddipadu village in Prakasam District. They allegedly own various extents of lands in Survey Nos. 198, 262, 263/1 and 263/2 of Maddipadu village. The lands are sought to be acquired by the Government for the public purpose for providing rehabilitation to the villagers of Gadiyapudi who are displaced by Gundlakamma Reservoir Project. Aggrieved by the same, the petitioners in this writ petition challenge the notification issued under Section 4(1) of the Land Acquisition Act, 1894 dated 05.09.2005. Be it noted, the second respondent who is the project administrator also dispensed with enquiry under Section 5-A of the Land Acquisition Act.

The learned counsel for the petitioners submits that acquisition of the land for rehabilitation of Project Displaced Persons (PDP) is not contemplated under the Land Acquisition Act, 1894 (for short, the Act). He would also submit that the project is at preliminary stage and therefore the notification dispensing with enquiry under Section 5-A of the Act cannot be sustained and that the notification under Section 4(1) of the Act is not published in two newspapers as required under the provisions of the Act.

The learned Assistant Government Pleader on instructions submits that the notification under Section 4(1) of the Act was published in two newspapers i.e. Eenadu and Andhra Jyothi on 17.09.2005 and that it was also notified by Tom Tom on 22.09.2005 in the locality. He also submits that notification under Section 6(1) was published on 30.09.2005, which is not specifically challenged in the writ petition. Lastly, he would submit that the acquisition of land is in connection with

Gundlakamma Reservoir Project and therefore is for the public purpose.

The Parliament amended the Land Acquisition Act by Act No.68 of 1984. The term 'public purpose' was also amended. Section 3(f) of the Act defines the term "public purpose" as to include, *inter alia,* the provision of land for the residential purposes to the poor or landless persons or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government or local authority. Gundlakamma Reservoir Project is one such scheme and therefore acquisition of land for rehabilitation of PDPs is certainly public purpose and the submission made in this regard is misconceived. Insofar as publication under Section 4(1) of the Act is concerned, after obtaining instructions, learned Assistant Government Pleader has submitted that is has already been done and there is no reason to doubt the same. Whenever the Government takes up a scheme for implementation of a project or irrigation project, there would certainly be some protests and objections. In which event, it is always open to the Government to convince the PDPs with regard to their economic interest. One such being provision of land for rehabilitation. Therefore, in every project undertaken by the Government, there is an element of urgency and this Court does not find any illegality in the second respondent dispensing with enquiry under Section 5-A of the Act.

The learned counsel for the petitioner relied on a decision of this Court in **K.Radhakrishna Reddy v District Collector, Nellore** and decision of Supreme Court in **Union of India v Mukesh Hans** in support of the contention that enquiry under Section 5-A of the Act cannot be dispensed with in a routine mechanical manner. The principle is well settled and as observed by this Court, provision for rehabilitation to Project Displaced Persons involves an element of urgency and therefore these decisions are of no assistance to the petitioners.

The writ petition is devoid of any merit and is accordingly dismissed in *limini*.

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(V.V.S.RAO,J)

06.10.2005

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